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C O N F I D E N T I A L SECTION 01 OF 03 GABORONE 000737

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TAGS: [PGOV](#) [PHUM](#) [BC](#)
SUBJECT: PROSPECTS IMPROVE FOR DIALOGUE OVER CKGR
RELOCATIONS

REF: A. 05 GABORONE 1228

[1](#)B. 05 GABORONE 666

[1](#)C. 05 GABORONE 1426

Classified By: CDA LOIS AROIAN FOR REASONS 1.4 B AND D

[1](#)1. (U) SUMMARY: As the court case between the San relocated from the Central Kalahari Game Reserve and the Government of Botswana nears its end, a group of local NGOs has established a coalition to resume dialogue between the San and the Government. Regardless of the High Court's decision, expected in late summer, all contacts believe the "losing" party will appeal. Despite the prospect of continued litigation, indications of official receptivity to dialogue prompted the NGO community to establish a formal structure that could facilitate talks. The coalition members are determined to overcome attempts by Survival International (SI) to derail their efforts and are optimistic that talks will take place, provided they can access the one resource that has enabled SI to intervene so destructively: money. END SUMMARY.

COURT TO HEAR CLOSING ARGUMENTS THIS SUMMER

[1](#)2. (U) Examination of witnesses in the legal challenge to the Government of Botswana's relocation of some San and other ethnic minorities from the Central Kalahari Game Reserve (CKGR) concluded on May 17. The three-judge panel hearing the case asked that the applicants (the San/Basarwa protesting the relocation) file written closing arguments by June 28. The respondents, the State, must reply in writing by July 28. The court will hear arguments based on these submissions the week of August 14. Thereafter, it will adjourn to deliberate. It has not yet indicated when it would expect to deliver a verdict.

[1](#)3. (U) According to Kwapeng Modikwe, a journalist who has attended the hearings since they began in July 2004, the atmosphere in the courtroom has transformed from prior hostility (Refs A and B) to amicability. Modikwe observed that the former Minister for Environment, Wildlife and Tourism Pelonomi Venson and lead state counsel Sidney Pilane both interacted amicably with Gordon Bennet, attorney for the applicants, who reciprocated. The judges' even-handed treatment of the litigants has frustrated attempts by some observers to detect some indication of how they are likely to rule.

[1](#)4. (U) Although each side, not surprisingly, expresses confidence that it will prevail, all contacts agree that regardless of the outcome, an appeal is most likely. Indeed, both parties have already made known their intention to appeal if they do not succeed at the High Court.

NGOS FORM COALITION TO SUPPORT SAN

15. (SBU) With the conclusion of the case at hand, and the prospect of further legal battles looming, a group of local NGOs have resurrected the coalition that had supported the aggrieved San and other minorities before the court case started. Prior to the GOB's withdrawal of services, including provision of water, to residents of the CKGR in January 2002 in an effort to coerce them into relocating to points outside the Reserve, a group of NGOs coalesced to help advocate for the rights of the San. This group included Ditshwanelo (the Botswana Center for Human Rights), the Botswana Council of Churches, the Working Group for Indigenous Minorities in Southern Africa (Botswana), First People of the Kalahari, and the Kuru Family of Organizations. These organizations consulted with the Ministry of Environment, Wildlife and Tourism to develop mutually acceptable compromises, such as designation of community use zones within the CKGR, which the relocated populations could access for cultural and economic purposes.

16. (SBU) Insufficient communication within the GOB cut this process short, however, when the Ministry of Local Government, which oversees provision of services to remote areas, announced withdrawal of services in order to encourage the remaining residents to leave the Reserve. When FPK, on the advice of Survival International, broke with the other coalition members and decided to take the GOB to court, the coalition dissolved, although the member organizations continued their various efforts to promote development among the San.

17. (U) On May 10, the NGO coalition reformed, with the proclaimed intention of helping past and present residents

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of the CKGR understand, articulate and achieve their constitutional and development rights. They intend to conduct workshops to help the relevant communities understand their rights and help them establish effective representative organizations so that the San can advocate for their own interests. Simultaneously, the coalition intends to engage the GOB to encourage movement toward meaningful dialog over the rights of these communities.

18. (U) FPK's ties to SI have already created turmoil for the coalition. Immediately following the coalition's press release on May 17, a press statement emerged, purportedly from FPK, which flatly denounced the coalition's observation regarding the "potential damage" that the media and international organizations could do to prospects for meaningful discussions with the Government. When other coalition members questioned FPK about the statement, FPK members said they had never seen the statement, leading some to believe that SI had released the document under FPK's name. Alice Mogwe, Director of Ditshwanelo, assured PolOff that coalition members had expected maneuvers of this kind by SI and were prepared to stay the course.

GOVERNMENT APPEARS OPEN TO DIALOG

19. (U) In recent months, the GOB has shown a greater willingness to renew its dialogue with the San. When the Minister of Presidential Affairs and Public Administration attended the Committee on the Elimination of all Forms of Racial Discrimination (CERD) meeting in March, he stated that the Government saw no "legal impediment" to negotiations. This was a significant departure from the standard response given previously, that discussions could not take place while the court case was underway. In a subsequent conversation with Emboffs, Ambassador Ernest Mpofu, the Permanent Secretary for Political Affairs in the Office of the President, confirmed in principle the Government's willingness to engage in talks.

¶10. (C) David Modiega, General Secretary of the Botswana Council of Churches, told PolOff "confidentially" that representatives of Ditshwanelo and the BCC had met with Vice President Ian Khama to discuss the possibility of "talks about talks". According to Modiega, Khama said he was willing to move toward dialogue between the GOB and the San and appreciated the need to resolve this problem that has disturbed Botswana's international relationships and tarnished its image abroad.

¶11. (U) FPK's association with Survival International poses a challenge to the success of such a dialogue. Experience has shown that FPK will divulge any and all information it receives to SI, which has preferred litigation to negotiation and likely will try to use information provided by FPK to undermine any talks. According to Modiega, however, the GOB recognizes that excluding FPK from any talks would render the process pointless. The coalition hopes that preparatory talks lead to a modus operandi that can sustain meaningful dialogue despite the challenge posed by SI.

GOVERNMENT REINING IN THE ROGUES

¶12. (C) While the NGOs try to figure out how to sideline disruptive elements among them, the Government has already reined in officials whose statements and conduct were exacerbating tensions. Mpofu explained to Emboffs that many in the GOB had realized that Presidential Spokesperson Jeff Ramsay and Special Advisor to the President Sidney Pilane, who previously were the GOB's primary voice on this issue, were simply making matters worse. They would make inaccurate statements, Mpofu complained, and then he and others would have to sort out the mess. Indeed, Mpofu doubt whether "those who appointed" Pilane, i.e. President Mogae, could control him. In December 2005, when Pilane wanted to attend an event on indigenous minorities in New York, Mpofu and others managed to prevent his attendance. Since that point, Pilane's previously near single-handed domination of the CKGR relocation issue has ebbed, with officials in the Office of the President reasserting their authority.

¶13. (C) Mpofu also provided an interesting insight into the motivations driving the relocation process. Before taking over as Permanent Secretary in the Ministry of Foreign Affairs in 1998, Mpofu had been Ambassador in Brussels for ten years. During that time, he said, Botswana had come under pressure from European countries to empty the CKGR of residents because, they believed, their presence threatened the fragile and unique ecology of the

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Kalahari. So, he said, the GOB obliged. Now that it has done so, the Government is accused of violating the rights of the former residents of the CKGR. He was clearly exasperated at what he saw as a clear instance of "moving the goal posts". (Note: While this is obviously an incomplete accounting of the factors that motivated the relocation, it is the first time an official has explicitly linked international pressure on the conservation front with the decision to relocate. End Note.)

GOVERNMENT REOPENS CKGR

¶14. (U) On May 22, the Ministry of Environment, Wildlife and Tourism reopened parts of the CKGR which had been closed in September 2005 after an outbreak of sarcoptic mange among small stock and wildlife within the Reserve (Ref C). After the conclusion of the examination of witnesses earlier in May, the Government had also allowed Gordon Bennet to enter the Reserve and consult with those of his clients who continue to reside in the CKGR. NGOs still need to obtain permission to enter on a case-by-case basis to provide supplies to the few families still living inside the park, however.

COMMENT

¶15. (C) Growing numbers of officials in the MFA and Office of the President recognize that the Government's often defensive and inflexible handling of the CKGR relocation issue has played into the hands of SI. The re-emergence of the NGO coalition to support the San coincided with a course correction within the Government. It is not yet clear whether SI, through the FPK, will destabilize the coalition enough to prevent it from having any positive impact. A key factor in the coalition's ability to resist this disruptive influence is access to funding, which SI has used so effectively to distort and misrepresent the San/CKGR relocation issue. Mission is considering how it might be able to support the coalition and has begun to coordinate with other Embassies to maximize the chances that meaningful dialogue can take place.
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